

ORIGIN EAP-00

INFO	LOG-00	EEB-00	AID-00	AMAD-00	ACQ-00	CIAE-00	INL-00
	C-00	DOEE-00	DOTE-00	DS-00	FAAE-00	VCI-00	H-00
	TEDE-00	INR-00	JUSE-00	L-00	MOFM-00	MOF-00	M-00
	VCIE-00	DCP-00	NSAE-00	OES-00	NIMA-00	PM-00	P-00
	FMPC-00	SP-00	IRM-00	SSO-00	SS-00	T-00	NCTC-00
	EPAE-00	PMB-00	DSCC-00	LBA-00	PRM-00	SCA-00	NFAT-00
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INFO NSC WASHINGTON DC PRIORITY 0000  
SECDEF WASHINGTON DC PRIORITY  
CDR USPACOM HONOLULU HI PRIORITY  
HQ USPACOM HONOLULU HI PRIORITY  
OSD WASHINGTON DC PRIORITY  
CNO WASHINGTON DC PRIORITY  
JOINT STAFF WASHINGTON DC PRIORITY

C O N F I D E N T I A L STATE 120864

E.O. 12958: DECL: 11/05/2018  
TAGS: [CH](#) [KTIA](#) [MOPS](#) [PBTS](#) [PHSA](#) [PREL](#)  
SUBJECT: WARNING CHINA ON HARASSMENT OF U.S. NAVY VESSELS

REF: A. 07 STATE 187212  
[1](#)B. 07 STATE 100698  
[1](#)C. 08 STATE 043018  
[1](#)D. 08 STATE 050464

Classified By: EAP PDAS GLYN T. DAVIES FOR REASONS 1.4(B) AND (D)

- [1](#)1. (U) This is an action request. Please see para [7](#).
- [1](#)2. (U) Background: Over the past 18 months, the frequency of China's verbal warnings, vessel-shadowing by multiple platforms simultaneously, unprofessional seamanship, and unsafe maneuvering have increased the risk of miscalculation in interaction with U.S. military activities in China's Exclusive Economic Zone (EEZ). The United States has previously objected to China's actions via multiple demarches (Refs A through D). Recent Chinese actions have led us to once again highlight the increased risk of miscalculation and collision posed by this harassment, and to urge China to respect freedoms and rights under international law.
- [1](#)3. (U) Under customary international law, as reflected in the 1982 UN Convention on the Law of the Sea (UNCLOS), military activities may be conducted within the EEZ of another nation as an exercise of high seas freedoms of navigation and other internationally lawful uses of the sea related to those freedoms (UNCLOS articles 56, 58, and 87). Under UNCLOS, a coastal state is obligated to exercise due regard for the exercise of high seas freedoms and related internationally lawful uses of the sea by other states in its EEZ. In addition, U.S. warships and naval auxiliaries are entitled to complete sovereign immunity while exercising high seas freedoms under international law.
- [1](#)4. (C/REL CHINA) On October 16, USNS Able, a sovereign immune U.S. naval auxiliary, was conducting lawful military operations in China's claimed EEZ, approximately 95 nm from the PRC coast. PRC Zhongguo Hai Jian 62 (Wagor 62) closed USNS Able from the starboard quarter at 2 nm to within 0.3 nm of Able's starboard bow while presenting a narrow aspect. Able repeatedly issued international rules of road/convention on international regulations for preventing collisions at sea (COLREG) warnings. Since Wagor 62 was nonresponsive and Able's master was unable to ascertain the Chinese ship's intentions, Able sounded five blasts on the ship's whistle (danger signal). Wagor 62 subsequently maneuvered away from Able.
- [1](#)5. (C/REL CHINA) A similar incident occurred between

September 6 and September 14 with USNS Victorious, a sovereign immune U.S. naval auxiliary conducting lawful military operations in China's claimed EEZ, approximately 75 nm from the PRC coast. On two occasions, PRC naval vessel DD-113 stopped in front of USNS Victorious' track, forcing her to alter course. DD-113 also crossed behind USNS Victorious' stern on two occasions, even though Victorious displayed signals warning of towing operations. Victorious made multiple attempts to communicate with the PRC vessel to instruct them to stay clear, but the PRC crew did not respond.

¶6. (U) The USG strongly objects to China's conduct in these two most recent incidents, which was inconsistent with China's legal obligations.

¶7. (C) Post is requested to present the talking points in para 8 and non-paper in para 9 to appropriate counterparts in the MFA and Ministry of National Defense. Talking points may also be left as a non-paper.

¶8. (C/REL CHINA) Begin talking points:

-- We would like to bring to China's attention two recent incidents in which PRC naval vessels carried out harassing maneuvers against two U.S. naval auxiliary vessels operating in international waters.

-- Unprofessional seamanship and unannounced maneuvers by Chinese ships monitoring U.S. naval operations increase the risk of miscalculation or collision, potentially putting both U.S. and PRC vessels and their crews at grave risk.

-- As sovereign immune vessels, U.S. naval auxiliaries enjoy freedom from interference by the authorities of other nations.

-- Under customary international law, as reflected in the 1982 UN Convention on the Law of the Sea (UNCLOS), military activities may be conducted within an EEZ of another nation as an exercise of high seas freedoms and other internationally lawful uses of the sea related to those freedoms. Such exercise of this freedom is not contingent on the prior notification to, or consent of, the coastal state.

-- Under UNCLOS, the coastal state is obligated to exercise due regard for the exercise of high seas freedoms and related internationally lawful uses of the seas by other states in its EEZ.

-- The PRC vessels' maneuvers violated the requirement under international law, as reflected in UNCLOS, to operate with due regard for the rights and safety of other lawful users of the ocean.

-- The United States expects Chinese ships to act responsibly and refrain from provocative activities that could lead to miscalculation or a collision at sea, endangering vessels and the lives of U.S. and Chinese mariners.

-- The United States will continue to exercise its navigational rights and freedoms in China's EEZ in accordance with customary international law as recognized in UNCLOS.

-- The United States calls on China to fulfill its obligations to respect freedoms and rights guaranteed to all states under international law for uses of the sea. Harassing maneuvers by PRC vessels will not dissuade U.S. vessels from exercising their rights, but do endanger all vessels involved and the lives of their crews.

End talking points.

¶9. (C/REL CHINA) Begin non-paper.

-- On 16 October 2008, PRC Zhongguo Hai Jian 62, after conducting hail and query of USNS Able, altered course and speed resulting in a 0.3 nm closest point of approach on USNS Able's bow. USNS Able repeatedly issued international rules

of road/convention on international regulations for preventing collisions at sea (COLREG) warnings. Since Zhongguo Hai Jian 62 was nonresponsive and Able's master was unable to ascertain Zhongguo Hai Jian 62's intentions, Able sounded five blasts on the ship's whistle (danger signal). Zhongguo Hai Jian 62 subsequently maneuvered away from Able.

-- On September 6, 2008, in darkness, DD-113 maneuvered in an unprofessional manner in the vicinity of USNS Victorious while the vessel was conducting lawful military activities in international waters approximately 75 nm from China's coast. Specifically, DD-113 positioned herself in front of USNS Victorious' track and went dead in the water. Although USNS Victorious was displaying the appropriate shapes and lights, as prescribed in the COLREGs for a vessel restricted in its ability to maneuver, she was forced to alter course to maintain adequate separation.

-- On September 7, 2008, DD-113 again operated in an unprofessional manner, turning toward USNS Victorious at a speed of 10 knots and crossing 1.0 nm behind her stern during towing operations. At the time, USNS Victorious was displaying day shapes ("ball-diamond-ball") and lights, as prescribed by the COLREGs, indicating it was engaged in towing operations and was restricted in its ability to maneuver.

-- On September 9, 2008, DD-113 continued to operate unprofessionally, increasing speed to pass USNS Victorious and then stopping in front of her track. Victorious again had to alter course to maintain adequate separation.

-- On September 14, 2008, PRC Zhongguo Hai Jian 22 altered course and speed that would have resulted in a 0.6 nm closest point of approach on USNS Victorious' stern. At the time, USNS Victorious was engaged in towing operations as indicated by the prescribed day shapes and lights. USNS Victorious hailed Zhongguo Hai Jian 22 on VHF bridge-to-bridge, but Zhongguo Hai Jian 22 did not respond and crossed USNS Victorious' stern at 1.4 nm.

-- We urge the PRC Ministry of Foreign Affairs and Ministry of National Defense to raise this issue with the PLA Navy and take all necessary steps to ensure that such incidents are not repeated.

End non-paper.

RICE